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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/713,736 | 11/15/2000 | Gene A. Frantz | TI-29089 | 3502 |

23494 7590 10/18/2004

TEXAS INSTRUMENTS INCORPORATED
 P O BOX 655474, M/S 3999
 DALLAS, TX 75265

EXAMINER

GESESSE, TILAHUN

| | |
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| ART UNIT | PAPER NUMBER |
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2684

DATE MAILED: 10/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/713,736

Applicant(s)

FRANTZ, GENE A.

Examiner

Tilahun B Gesesse

Art Unit

2684

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: 12-21.

Claim(s) objected to: _____.

Claim(s) rejected: 31,38-39,54.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


Tilahun Gesesse
703-308-5873

On page 6, third paragraph of response to after final , applicant argued that subject matter, not made obvious by the combination of Ma (6,563,805) and Kleiman (5,959,945), "the content requested not included in the digital radio transmission but associated with the content which is transmitted in the digital radio transmission"

The underlined body of the claim, has been interpreted by the examiner , as the content requested is associated with the content which is transmitted in the digital radio transmission. Otherwise, the subject matter has not positive recitation. Thus, Ma et al discloses receive radio broadcast signal through XM radio receiver (8) and buffer (10) and controller coupled to playback (12) and FM modulator (14) and allows the user to tune the digital receiver to the desired radio channel and selection and request other contents needed (column 3 line 54-68 and column 4, lines 9-21 and figure 1). Regarding claims 38-39, Ma et al teach that satellite digital audio receiver 4 operates in a mobile environment, (column 3, lines 54-56).

On page 7, third paragraph, applicant's response to the rejection, applicant argued that the recited subject matter in claim 54, " downloading ... a decoder used to covert the downloaded content to an analog signal to the storage device; and playing the downloaded content at the receiver using the downloaded decoder".

The examiner disagrees. Ma et al discloses apparatus operates with a satellite digital radio broadcast system in which the digital signal is received by the digital audio receiver and decoded (column 2, lines 6-33).

To sum up, Applicant's argument fails to show the distinction between the subject matter and applied prior art and the noble subject matter of the applicant's invention. In

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view of cited evidences and applied prior art the rejection to the claims is proper and maintained

Tilahun Gesesse

Primary Examiner

September 30, 2004



TILAHUN GESESSE
PATENT EXAMINER